

MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING (this “**Memorandum**”) is effective as of [_____]¹, 2023 (the “**Effective Date**”), by and between NORTHWESTERN UNIVERSITY, an Illinois corporation (“**Northwestern**”), and THE CITY OF EVANSTON, a municipal corporation (the “**City**”). Northwestern and the City are sometimes referred to herein individually as a “**Party**” and collectively as the “**Parties**”. As used herein, the term “Northwestern” shall include its contractors, operators and/or affiliates, as applicable.

RECITALS

WHEREAS, Northwestern and the City have a long history of working together to enhance and support the Evanston community through various collaborative efforts.

WHEREAS, in furtherance of the Parties’ continued cooperation with respect to the entire Evanston community as a whole, the Parties desire to set forth (i) certain operational and logistical considerations with respect to Ryan Field following its redevelopment (the “**Ryan Field**”) for events ticketed for a minimum of ten thousand (10,000) individuals and (ii) certain public benefits. Such public benefits are intended to foster a broader relationship and strengthen a deeper connection between Northwestern and the entire Evanston community, rebuild a new Ryan Field which will further vitalize the community, and help provide more opportunities for additional future collaboration and partnership between the Northwestern and the Evanston community as a whole.

WHEREAS, the successful operation of Ryan Field will in certain respects require separate considerations and requirements to apply during football games (“**Football Games**”), amplified musical performances inside the stadium intended as publicly facing capacity concerts (“**Concerts**”), and all other times.

NOW, THEREFORE, in consideration of: the mutual covenants set forth herein, the passage of the Approval Ordinances (as defined below), Northwestern’s original rights therein, a newly rebuilt Ryan Field, the legal and regulatory environment as of the Effective Date, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed; the Parties hereto, intending to be legally bound hereby, agree as follows:

1. Recitals. The foregoing recitals are acknowledged to be accurate and are incorporated herein by reference.
2. City Services.
 - a. City Personnel. The City shall provide personnel in such quantities, at such locations, and during such hours as Northwestern may designate, upon oral or written notice delivered at least three (3) days prior to the date on which such personnel are requested to perform services (the “**Event Date(s)**”); provided, however, that the City, may, but shall not be obligated to provide any personnel unless Northwestern delivers written notice at least one (1) month prior to any Event Date and such notice describes: (i) the Event Date, (ii) an estimated number of personnel that the Northwestern might designate on the Event Date, and (iii) an estimated number of hours personnel may be requested to work.

¹ Note to Draft: The Effective Date will be on or after the passage of the Approval Ordinances that are mutually agreeable to the City and Northwestern

- b. Reimbursement. Northwestern shall reimburse the City for the City's out-of-pocket costs on Event Dates incurred in connection with providing personnel pursuant to Section 2.a. above necessary for the operation of Ryan Field according to the reimbursement schedule attached as Schedule 1 hereto, which may be modified from time to time by agreement between the Parties.

3. Tailgating Activities. Except to the extent tailgating or related activities occur inside Ryan Field or within its plazas, Northwestern will not permit or facilitate tailgating activities on Event Dates for Concerts.

4. Security Plan. Northwestern shall deliver a reasonable security plan to the City prior to the first Event Date following the date on which a certificate of occupancy is issued for Ryan Field (the "**Security Plan**"), which Northwestern shall update and deliver to the City annually thereafter. The Security Plan shall describe Northwestern's intentions with respect to providing, supervising or otherwise coordinating security services in connection with the operation of Ryan Field, such as, by way of example only, the following:

- a. police and/or security staffing levels;
- b. use of magnetometers;
- c. bomb sweeps; and
- d. coordination with City Police, State of Illinois Police, and the Federal Bureau of Investigation.

5. Sustainability Plan. Northwestern shall deliver a reasonable sustainability plan to the City prior to the first Event Date following the date on which a certificate of occupancy is issued for Ryan Field (the "**Sustainability Plan**"), which Northwestern shall update and deliver to the City annually thereafter. The Sustainability Plan shall describe Northwestern's intentions with respect to activities related to environmental sustainability in connection with the operation of Ryan Field, such as, by way of example only, the following topics:

- a. trash clean-up;
- b. recycling;
- c. composting;
- d. water management; and
- e. greenspace.

6. Traffic Management Plan. Northwestern shall deliver a reasonable traffic management plan in substantially the form of Schedule 2 attached hereto to the City prior to the first Event Date following the date on which a certificate of occupancy is issued for Ryan Field (the "**Traffic Management Plan**"), which Northwestern shall update and deliver to the City annually thereafter. The Traffic Management Plan shall describe Northwestern's intentions with respect to activities related to regulating, managing, controlling, or otherwise affecting traffic flows on Event Dates in connection with the operation of Ryan Field, such as, by way of example only, the following activities:

- a. providing or facilitating non-vehicular modes of transportation, including pedestrians and bicycles;
- b. providing or facilitating shuttles;
- c. facilitating off-site vehicular parking;

- d. enabling efficient access to or for transportation network providers and ride share;
- e. restricting street access; and
- f. supervising, limiting or otherwise regulating permit parking.

7. Concert Operations Plan. Northwestern shall deliver a reasonable concert operations plan to the City prior to the first Concert Event Date following the date on which a certificate of occupancy is issued for Ryan Field (the “**Concert Operations Plan**”), which Northwestern shall update and deliver to the City annually thereafter. The Concert Operations Plan shall describe Northwestern’s intentions with respect to activities in connection with the operation of Concerts at Ryan Field, such as, by way of example only, the following topics:

- a. management of noise levels consistent with the Approval Ordinances and the approved Concert Operations Plan;
- b. sound check protocols;
- c. traffic and parking management;
- d. coordination with City personnel prior to and during Concerts;
- e. staging and underground or off-site storage for trucks and buses;
- f. fines for noncompliance; and
- g. set up and take down of Concert equipment.

From Labor Day to Memorial Day, Northwestern agrees that evening concerts on Sunday through Thursday (assuming the next day is not a holiday) will not be permitted without prior approval from the City.

8. Advance Notice of Events. Northwestern shall use its best efforts to provide significant advance notice to the City and Evanston community of any capacity events to occur at Ryan Field or the associated plazas.

9. Public Benefits. Northwestern is committed, both through its own efforts and through the efforts of its contractors and vendors, to (i) furthering opportunities for a broad and diverse membership of the Evanston community to participate in and benefit from the design, construction, maintenance and operation of a newly rebuilt Ryan Field, (ii) fostering a broader relationship and strengthening a deeper connection between Northwestern and the entire Evanston community, (iii) rebuilding a new Ryan Field, and (iv) helping provide more opportunities for additional future collaboration and partnership between the Northwestern and the Evanston community as a whole. To all those ends, and pursuant to Section 6-3-6-3 of the Evanston Zoning Ordinance (Public Benefits), Northwestern agrees to the public benefits (and duration of such) as outlined on Schedule 3 attached hereto assuming the passage of the Approval Ordinances (as defined below), Northwestern’s original rights therein, a newly rebuilt Ryan Field, and a legal and regulatory environment that is substantially similar as existed as of the Effective Date. In connection with such public benefits, Northwestern will make certain voluntary payments to the City and other City stakeholder organizations, all as described on Schedule 3. The parties acknowledge that Northwestern is tax-exempt and any such voluntary payments shall not impact Northwestern’s tax-exempt status or be considered a tax, tariff or duty or a payment in lieu thereof.

In light of the broader relationship between Northwestern and the entire Evanston community, and in the spirit of a renewed greater partnership between Northwestern and the City going forward, the Parties agree that they are committed to collaborating in good faith and reasonably working with one another with respect to all Northwestern/City matters beyond the new Ryan Field for years to come.

10. Community Advisory Council. Northwestern shall meet at least twice annually with the Community Advisory Council (as hereinafter defined), unless such meetings are reduced and/or such Community Advisory Council is terminated in writing by the City. The purpose of the Community Advisory Council shall be to review the Traffic Management Plan and Security Plan and their updates, as provided for above, receive updates on Northwestern's M/WBE hiring during construction and to gather and disseminate information regarding the operation of Ryan Field from neighborhood residents to Northwestern and the City, and vice versa. As used herein, the "**Community Advisory Council**" means a council composed of three (3) members appointed by Northwestern staff and three (3) members appointed by City staff. Such members shall be appointed in accordance with such rules as Northwestern and the City may from time to time agree.

11. Alcohol Sales. The Parties shall cooperate such that Northwestern will (i) obtain all permits, licenses and approvals required for the sale of alcohol at Ryan Field and its Events prior to opening of the new stadium, and (ii) maintain all such permits, licenses and approvals for so long as Northwestern causes vendors to make alcohol available at Ryan Field and its Events. In connection therewith, Northwestern shall use commercially reasonable efforts to cause professional servers to utilize industry-standard practices for the service of alcohol, such as, by way of example only:

- a. reviewing customers' identification for compliance with applicable age limits;
- b. limiting the number of alcoholic drinks that any individual may purchase; and
- c. stopping general admission alcohol service in accordance with best practices for Football Games and Concerts.

12. Term. The term of this Memorandum shall be perpetual for so long as Northwestern is hosting Football Games and Concerts at Ryan Field pursuant to that certain Ordinance XX-O-23 Granting the Ryan Field Planned Development and that certain Ordinance XX-O-23 Amending the Zoning Ordinance Regulations for the U2 University Athletic Facilities District (in forms mutually agreeable to the City and Northwestern, collectively, the "**Approval Ordinances**"), Northwestern retains its original rights therein, a new Ryan Field is rebuilt, and a legal and regulatory environment that is substantially similar as existed as of the Effective Date. The City shall not revoke, rescind, modify or otherwise alter the Approval Ordinances without Northwestern's prior written and signed consent. For the avoidance of doubt, to the extent any term, condition or provision is explicitly time limited herein, this Section 12 shall not override such explicit time limitation.

13. Notices. Any and all notices, elections or demands permitted or required to be made under this Memorandum shall be in writing, signed by the party giving such notice, election or demand, and shall be delivered personally, by receipted commercial courier service, or sent by registered or certified United States mail, postage prepaid, return receipt requested to the other party at the address set forth below, or at such other address as may have heretofore been designated in writing. The date of personal delivery or three (3) days after postmark of date of mailing, as the case may be, shall be the date such notice, election or demand is deemed delivered.

If to the City: City of Evanston
 2100 Ridge Avenue
 Evanston, Illinois 60201
 Attn: City Manager;
 Corporation Counsel;
 _____ ; and

If to Northwestern: Northwestern University
633 Clark Street
Evanston, Illinois 60208
Attn: Vice President and Chief Operating Officer;
Vice President and Chief Financial Officer; and
Senior Executive Director of Neighborhood and Community Relations

with copy to: Northwestern University
Office of General Counsel
633 Clark Street
Evanston, Illinois 60208
Attn: General Counsel

14. Not an Easement or Public Dedication; Authorizations.

- a. Notwithstanding anything herein to the contrary, and for the avoidance of doubt, nothing herein shall be deemed to: be an easement, lease or license to any individual, entity, municipality or the general public; confer any rights, title, interests or benefits upon or in favor of any individual, entity, municipality or the general public; be a gift or dedication of any portion of Ryan Field or its surrounding areas to any individual, entity, municipality or the general public; or a specific right to any individual, entity, municipality or the general public to use Ryan Field or its surrounding areas, other than the general rights of use in common with all other individuals and members of the general public as expressly contemplated by this Memorandum; it being the intention of the Parties that this Memorandum shall be strictly limited to and for the purposes herein expressed, and for no other use or purpose. The City shall not record this Memorandum or any summary thereof.
- b. To the extent the consent, authorization or approval of or license from, or notice to, the City is required with respect to this Memorandum or its subject matter, then the City hereby acknowledges and agrees that its execution of this Memorandum shall be deemed to have satisfied any such consent, authorization, approval, license or notice requirement. To the extent the consent, authorization or approval of or license from, or notice to, any third party or other governmental authority (including Cook County or the State of Illinois) is required with respect to this Memorandum or its subject matter, then the Parties agree to cooperate with each other to obtain such consent, authorization, approval or license or give such notice.

15. Miscellaneous.

- a. This Memorandum is a legally binding agreement between the Parties, and is legally enforceable upon each Party by the other Party.
- b. This Memorandum may only be amended, modified or supplemented in writing signed by each Party; provided, however, that Northwestern may unilaterally amend this Memorandum in order to comply with any applicable law, rule, order, settlement, regulation or licensing requirement, or change thereof, and shall give the City written notice thereof. The Parties shall enter into such amendments to this Memorandum as may be necessary to effectuate the continued operation of Ryan Field.

- c. If any provision of this Memorandum or any word or part thereof or any application thereof is determined to be invalid, illegal or unenforceable, then such invalidity, illegality or unenforceability shall not affect any other provision of this Memorandum, this Memorandum shall be construed as if such invalid, illegal or unenforceable part were never included herein, the remainder of this Memorandum shall be and remain valid and enforceable to the fullest extent permitted by law, and the Parties shall negotiate in good faith to modify this Memorandum so as to effect the original intent of the Parties as closely as possible.
- d. This Memorandum shall be exclusively governed by and construed in accordance with the laws of Illinois, excluding its choice or conflict of law principles. All disputes and claims relating to this Memorandum not resolved between the Parties shall be resolved exclusively by binding confidential arbitration applying Illinois law and administered by an arbitrator mutually agreed upon by the Parties. The place of any such arbitration shall exclusively be Evanston, Illinois.
- e. Each Party hereby forever waives and releases any and all claims, demands, or causes of action it may have, known or unknown, against the other in any way related to this Memorandum.
- f. The Parties are and shall be independent contractors and this Memorandum shall not be construed to create any relationship of partnership, joint venture or other similar relationship.
- g. Neither Party shall be liable for any failure of or delay in the performance of this Memorandum for the period that such failure or delay is due to force majeure, including, but not limited to: war, terrorism, riots, fire, flood, tornado, earthquake, lightning, pandemic, other acts of God, explosion, strikes, labor disputes, acts of state or governmental action prohibiting or impeding any party from performing its respective obligations hereunder, or any other reason beyond the reasonable control of such Party.
- h. [Note to Draft: Reasonable insurance and indemnity provisions to be reasonably negotiated between Northwestern and City Staff.]
- i. This Memorandum constitutes the entire understanding of the Parties with respect to its subject matter and supersedes all prior agreements, written or oral, with respect thereto.
- j. This Memorandum shall equally apply to any successor or assign of any Party. No Party may assign or delegate its rights or obligations hereunder without the prior written consent of the other Party, except that Northwestern may assign or delegate any or all of this Memorandum or the rights or obligations hereunder to a wholly-owned subsidiary of Northwestern.
- k. This Memorandum does not confer any right, benefit or remedy upon any individual, entity or municipality that is not a Party hereto.
- l. No failure or delay in exercising any right or remedy shall be a waiver thereof. No waiver shall be effective unless in writing and signed by the party so waiving.
- m. This Memorandum may be executed in counterparts and delivered by electronic means (e.g., fax, email, docuSign).

[Signature pages follow]

IN WITNESS WHEREOF, the undersigned have executed this Memorandum of Understanding as of the Effective Date.

NORTHWESTERN UNIVERSITY

By: _____
Name: _____
Its: _____

THE CITY OF EVANSTON

By: _____
Name: _____
Its: _____

SCHEDULE 1
REIMBURSEMENTS

[Note to Draft: To be determined between the City Staff and Northwestern]

SCHEDULE 2
FORM OF TMP

Attached.

SCHEDULE 3
PUBLIC BENEFITS PACKAGE

In accordance with Section 6-3-6-3 of the Evanston Zoning Ordinance, in order to provide benefits to the surrounding neighborhood and the City as a whole from the Approval Ordinances, to foster a broader relationship and strengthen a deeper connection between Northwestern and the entire Evanston community, and to help provide more opportunities for additional future collaboration and partnership between the Northwestern and the Evanston community as a whole, and assuming the passage of the Approval Ordinances, Northwestern retains its original rights therein, a new Ryan Field is rebuilt, and a legal and regulatory environment that is substantially similar as existed as of the Effective Date, Northwestern agrees to the following public benefits:

For a period of ten (10) years commencing in 2024:

1. Pay the City \$3,000,000 annually as a Good Neighbor Fund, to further projects of interest as mutually agreed to by the City and Northwestern.
2. An annual investment of \$500,000 (as supported by a \$10 million gift from the Ryan family to Northwestern) in local workforce development programming and upskilling initiatives, which may include contributions to other organizations, City programs or Northwestern programs that are committed to workforce development in Evanston.
3. An annual investment of \$500,000 in racial equity programming, which may include contributions to other organizations or City programs committed to racial equity.
4. Contribute at least \$1,000,000 per year in aggregate to Evanston nonprofit organizations, community groups, faith-based institutions and/or schools, which contributions shall be documented and provided to the City.
5. Enhance efforts to increase applications and admittance of Evanston high school students to Northwestern, including by establishing a fund of at least \$2,000,000 per year to award financial aid to such students.
6. Contribute at least \$250,000 annually towards the revitalization of downtown Evanston, including programs such as the “clean team,” with the goal of continuing to make the downtown business district attractive for Northwestern students and Evanston community members alike.
7. Develop a local hiring and contracting program for design and construction jobs that encourages the hiring of minority and women-owned business enterprises (“M/WBE”), with priority given to Evanston-based businesses, which program shall reasonably target at least thirty-five percent 35% M/WBE participation in the design and construction of Ryan Field. In connection with its commitment to achieve 35% M/WBE participation, Northwestern shall implement or cause to be implemented initiatives for maximizing participation in the design and construction of Ryan Field, including: developing and maintaining a project website where contractors and vendors can access all project documents and sign up to receive notifications; collaborating with local, small and minority business organizations to identify firms that may be interested in participating in the project, including, by way of example only, Rebuilding Exchange, Hire360, HACIA and the Evanston Chamber of Commerce; hosting pre-construction job fairs; encouraging partnerships between M/WBEs and other vendors; and participating in workforce development initiatives. Northwestern shall publicize its progress towards the commitments above by providing transparent outline of efforts and reports at each major stage of the project.
8. In partnership with the Kellogg School of Management, provide marketing and advertising support during the period of construction to help local businesses (including through the Central Street Business Association) maximize the positive impact of the new stadium. Engage with the City and

other business districts during the construction period to endeavor to develop a cohesive plan to leverage the additional visitors to Evanston driven by Concerts to benefit businesses across the City. Such plan may include elements such as ticket packages, meal discounts, marketing, and parking/transportation coordination.

9. Partner with the City to assist with fundraising efforts for the Guaranteed Basic Income Program.
10. Coordinate with the City to establish an internship program at the City for Northwestern students.

For a period of ten (10) years commencing in 2027:

1. Implement a Concert ticket surcharge in the targeted amount of \$3 per ticket and remit the proceeds between the two Evanston public school districts, and Northwestern will guarantee such proceeds of at least \$500,000 in the aggregate annually.
2. Guarantee at least \$2,000,000 in tax revenue from all events held at Ryan Field. Annually, provide the City with the difference between (a) \$2,000,000 and (b) the amount of taxes collected annually by the City from all events held at Ryan Field. In connection with the foregoing, the City shall provide Northwestern with the amount of collected taxes the previous year by January 31 and Northwestern shall pay the difference, if any, due within 60 days. Such \$2,000,000 tax guarantee would be subject to reduction to the extent Concerts or other events are negatively impacted (including reducing the number of Concerts or other events, making Concerts or other events more expensive or less bookable, attractive or attended, etc.) by conditions imposed by the Approval Ordinances or by action or omission of the City or third parties (including litigation, settlement, changes in ordinances, laws, rules, regulations, imposed taxes, etc.).
3. Host and co-sponsor with the City an annual signature event in Evanston, contributing at least \$250,000 per year to such programming.
4. Provide reasonable access for the public to the new open spaces from 7:00am to 9:00pm free of charge, subject to reasonable rules and regulations and closures for other purposes.
5. Use efforts to communicate with any Concert promoters to determine whether advance ticket pre-sale windows or other ticket arrangements might be made available exclusively for members of the Evanston community.
6. Coordinate community movie nights and seasonal festivals at dates and times informed by public input, free of entry charge.